



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15669 OF 2025

1. Krushna Natthu Mali
Age : 66 years, Occ : Agriculture,
2. Mahadu Natthu Mali
Age : 30 years, Occ : Agriculture,
R/o Varwade, Shirpur,
Taluka Shirpur, Dist. Dhule.

... PETITIONERS

...VERSUS...

1. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai
2. The Director of Town Planning Department,
Maharashtra State, Pune.
3. Town Planning Department,
Dhule,
Through its Town Planner Officer
4. Shirpur Varwade Municipal Council,
Shirpur, District Dhule
Through its Chief Officer.

... RESPONDENTS

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- Mr. Mukul Kulkarni i/b Mr. Naryan Chavan, Advocate for Petitioners
 - Mr. A.V. Lavte, AGP for Respondent/State
 - Mr. Milind Patil (Beedkar), Advocate for respondent no.4
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CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL – JADHAV, JJ.

DATED : APRIL 29, 2026

J U D G M E N T [Per Vaishali Patil – Jadhav, J.] :

. Rule. Rule made returnable forthwith and heard finally with the consent of learned Advocates for the parties.

2. By the present Petition filed under Article 226 of the Constitution of India, the petitioners seek the following relief :-

"B. The Hon'ble High Court may be pleased to issue writ of mandamus or any other appropriate writ, order or direction in the nature of writ and thereby declare that the reservation of Primary School and Play Ground vide Reservation Site No.20 in the sanctioned development plan of Shirpur Varwade Municipal Council, Shirpur on the land of the petitioner i.e. Gat No. 42C2/4/2b2 admeasuring 7442.61 SQ Mtr. (writ property) has been lapsed land in pursuant to purchase notice dated 17/11/2023 and the land is free from the reservation and available to the petitioner for utilization as per the use permissible to the adjacent and the respondent authorities be directed to issue appropriate notification in respect of deletion of survey no.4/2C2/4/2b2 from reservation."

3. Shorn of unnecessary details, the brief facts giving rise to the present petition are as under:

Petitioners are the owners of land bearing Gat No. 4/2C2/4/2b2, admeasuring 7442.61 sq. mtrs., situated at Mauje Varwade, Shirpur, Taluka Shirpur, District Dhule, within the municipal limits of Respondent No. 4- Shirpur Varwade Municipal Council. The

Final Revised Development Plan for Shirpur Varwade Municipal Council was sanctioned on 25.09.2013, vide a notification issued under Section 31(1) of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred as "MRTP Act"). In the said Final Development Plan, the petitioners' land was reserved for the purpose of Primary School and Playground, bearing Reservation Site No.20.

4. Respondent No.4- Municipal Council is the Planning Authority which, despite the said reservation did not take any steps for acquisition of the petitioners' reserved land within a period of 10 years from the date of coming into force of the Final Development Plan. Petitioners issued a purchase notice dated 17.11.2023 under Section 127(1) of the MRTP Act, calling upon the Respondent No.4- Municipal Council to acquire the said land and to initiate acquisition proceedings and pay compensation in accordance with law.

5. Respondent No.4 - Municipal Council vide Resolution no.679 dated 16.01.2025 resolved and accorded administrative and financial sanction for acquisition of the reserved land site no.20. Further proposal for acquisition of the reserved land was submitted to the Collector, Dhule by the Chief Officer of Respondent No.4 vide proposal dated 04.07.2025.

6. After service of purchase notice, respondent no.4 Municipal Council issued notice dated 28.02.2025 calling upon the petitioners to develop the land as per the provisions of the Unified Development Control and Promotion Regulations (UDCPR), 2020 and to submit a proposal. The petitioners, by their reply letter dated 13.03.2025, refused the said proposal, reiterating their demand for acquisition.

7. Thereafter, Sub-Divisional Officer and Land Acquisition Officer, Shirpur by letter dated 29.10.2025 asked the Superintendent of Land Record, Shirpur to inform the fees to be deposited for joint measurement of the reserved land.

8. Though the purchase notice was duly served, Respondent No.4 - Municipal Council failed to take any steps for acquisition of the land within the statutory period of two years from the date of notice as contemplated under Section 126 of the MRTP Act. No acquisition proceedings were initiated nor was any compensation paid to the petitioners within the stipulated period.

9. Being aggrieved by the inaction on the part of the respondents in taking steps for acquisition, and, the continued subsistence of reservation, despite lapse thereof, the petitioners have approached this Court by way of filing the present petition seeking declaration that the reservation has lapsed.

10. Learned Advocate Mr. Mukul Kulkarni appearing for the petitioners submitted that after receipt of the purchase notice, the Municipal Council was duty bound to take effective steps as contemplated under the provisions of Section 127 read with Section 126 of the MRTP Act. He submitted that after the revised development plan became final in the year 2013, thereafter, no steps are taken for acquisition of the reserved land, nor, the Council is permitting the petitioners to develop their own property. Therefore, the petitioners are deprived from enjoying their property, which is guaranteed under Article 300A of the Constitution of India. He submitted that the Hon'ble Supreme Court as well as this Court has time and again interpreted the provisions of Section 127 of the MRTP Act and held that the reservation on a private land would lapse after completion of period prescribed by Section 127 of the MRTP Act, if, the steps towards acquisition are not taken within a period of two years after service of purchase notice. In support of his submissions, he relied on the judgments in the case of

Municipal Corporation of Greater Bombay Vs. Hakimwadi Tenants' Association, [1988 Supp. SCC 55], Girnar Traders (2) Vs. State of Maharashtra, [2007(7) SCC 555], Girnar Traders (3) Vs. State of Maharashtra, [2011(3) SCC 1], Shrirampur Municipal Council Vs. Satyabhamabai Bhimaji Dawkher and others, [2013(5) SCC 627] and Nirmitti Developers Through its Partners and another Vs. The State of Maharashtra and others in Civil Appeal No.3238-3239 of 2025.

11. Learned Advocate Mr.M.M. Patil (Beedkar) appearing for respondent no.4 submitted that the Municipal Council has already taken steps for acquisition of the reserved land. Soon after the measurement of reserved land, further process for acquisition would be completed by the authorities. He submitted that the Municipal Council is in need of the reserved land for the purpose of Primary School and Play Ground, for which it is reserved. As the Council has already initiated the acquisition proceedings, reservation has not lapsed automatically. He prayed for dismissal of the petition.

12. Heard learned Advocate for the petitioner and learned Advocate for respondent no.4. Perused the documents annexed with the petition, affidavit-in-reply filed by respondent no.4.

13. Some of the admitted facts in the present petition are that Gat No.4/2C2/4/2b2 admeasuring 7442.61 Sq. Mtrs situated at Varwade, Tq. Shirpur, Dist. Dhule is reserved for Primary School and Play Ground vide reservation site No.20 in final revised development plan of 2013. The final development plan under Section 31 came into force w.e.f. 25.09.2013. The petitioners issued purchase notice on 17.11.2013 under Section 127 of the MRTP Act. Respondent No.4 has sent proposal for acquisition to the Collector by proposal dated 04.07.2025. Letter dated 29.10.2025 is sent to the Deputy Superintendent of Land Records for measurement of land.

14. Section 127 of the MRTP Act clearly provides that the owner can call upon the planning authority or the development authority to acquire land if it has not acquired the land by agreement within ten years from the date the development plan comes into force. Further period of twelve months, which was earlier six months and which has now been increased to twenty four months w.e.f. 29.08.2015, is available with the development authority to take appropriate steps to acquire the land. When such time has been laid down by the statute, respondent no.4 should have adhered to such time frame and should have acquired the land within two years after service of purchase notice.

15. In **Girnar Traders (supra)**, cognizance was taken by the Supreme Court about lapsing of several years and relief was granted to the owners. The Supreme Court has also explained the lapsing provision and what amounts to 'steps for acquisition' under Section 127 for acquisition. The relevant observations are as follows :

"54. When we conjointly read Sections 126 and 127 of the MRTP Act, it is apparent that the legislative intent is to expeditiously acquire the land reserved under the Town Planning Scheme and, therefore, various periods have been prescribed for acquisition of the owner's property. The intent and purpose of the provisions of Sections 126 and 127 has been well explained in Municipal Corpn. of Greater Bombay case [Municipal Corpn. of Greater Bombay v. Dr Hakimwadi Tenants' Assn., 1988 Supp SCC 55]. If the acquisition is left for time immemorial in the hands of the authority concerned by simply making an application to the State Government for acquiring such land under the LA Act, 1894, then the authority will simply move such an application and if no such notification is issued by the State Government for one year of the publication of the draft regional plan under Section 126(2) read with Section 6 of the LA Act, wait for the notification to be issued by the State Government by exercising suo motu power under sub-section (4) of Section 126; and till then no declaration could be made under Section 127 as regards lapsing of reservation and contemplated declaration of land being released and available for the landowner for his utilisation as permitted under Section 127. Section 127 permitted inaction on the part of the acquisition authorities for a period of 10 years for dereservation of the land. Not only that, it gives a further time for either to acquire the land or to take steps for acquisition of the land within a period of six months from the date of service of notice by the landowner for dereservation. The steps towards

commencement of the acquisition in such a situation would necessarily be the steps for acquisition and not a step which may not result into acquisition and merely for the purpose of seeking time so that Section 127 does not come into operation.

55. *Providing the period of six months after the service of notice clearly indicates the intention of the legislature of an urgency where nothing has been done in regard to the land reserved under the plan for a period of 10 years and the owner is deprived of the utilisation of his land as per the user permissible under the plan. When mandate is given in a section requiring compliance within a particular period, the strict compliance is required therewith as introduction of this section is with legislative intent to balance the power of the State of “eminent domain”. The State possessed the power to take or control the property of the owner for the benefit of public cause, but when the State so acted, it was obliged to compensate the injured upon making just compensation. Compensation provided to the owner is the release of the land for keeping the land under reservation for 10 years without taking any steps for acquisition of the same.*

56. *The underlying principle envisaged in Section 127 of the MRTP Act is either to utilise the land for the purpose it is reserved in the plan in a given time or let the owner utilise the land for the purpose it is permissible under the town planning scheme. The step taken under the section within the time stipulated should be towards acquisition of land. It is a step of acquisition of land and not step for acquisition of land. **It is trite that failure of authorities to take steps which result in actual commencement of acquisition of land cannot be permitted to defeat the purpose and object of the scheme of acquisition under the MRTP Act by merely moving an application requesting the Government to acquire the land, which Government may or may not accept. Any step which may or may not culminate in the step for acquisition cannot be said to be a step towards acquisition.***

57. *It may also be noted that the legislature while enacting Section 127 has deliberately used the word “steps” (in plural and not in singular) which are required to be taken for acquisition of the land. On construction of Section 126 which provides for acquisition of the land under the MRTP Act, it is apparent that the steps for acquisition of the land would be issuance of the declaration under Section 6 of the LA Act. Clause (c) of Section 126(1) merely provides for a mode by which the State Government can be requested for the acquisition of the land under Section 6 of the LA Act. The making of an application to the State Government for acquisition of the land would not be a step for acquisition of the land under reservation. Sub-section (2) of Section 126 leaves it open to the State Government either to permit the acquisition or not to permit, considering the public purpose for which the acquisition is sought for by the authorities. Thus, the steps towards acquisition would really commence when the State Government permits the acquisition and as a result thereof publishes the declaration under Section 6 of the LA Act.”*

16. In *Shrirampur Municipal Council (supra)*, the Hon'ble Supreme Court reiterated the findings given in *Girnar (supra)* and held that :-

“42. We are further of the view that the majority in Girnar Traders [Girnar Traders v. State of Maharashtra, (2007) 7 SCC 555] had rightly observed that steps towards the acquisition would really commence when the State Government takes active steps for the acquisition of the particular piece of land which leads to publication of the declaration under Section 6 of the 1894 Act. Any other interpretation of the scheme of Sections 126 and 127 of the 1966 Act will make the provisions wholly unworkable and leave the landowner at the mercy of the Planning Authority and the State Government.

43. The expression “no steps as aforesaid” used in Section 127 of the 1966 Act has to be read in the context of the provisions of the 1894 Act and mere passing of a resolution by the Planning Authority or sending of a letter to the Collector or even the State Government cannot be treated as commencement of the proceedings for the acquisition of land under the 1966 Act or the 1894 Act. By enacting Sections 125 to 127 of the 1966 Act, the State Legislature has made a definite departure from the scheme of acquisition enshrined in the 1894 Act. But a holistic reading of these provisions makes it clear that while engrafting the substance of some of the provisions of the 1894 Act in the 1966 Act and leaving out other provisions, the State Legislature has ensured that the landowners/other interested persons, whose land is utilised for execution of the development plan/town planning scheme, etc., are not left high and dry. This is the reason why time-limit of ten years has been prescribed in Section 31(5) and also under Sections 126 and 127 of the 1966 Act for the acquisition of land, with a stipulation that if the land is not acquired within six months of the service of notice under Section 127 or steps are not commenced for acquisition, reservation of the land will be deemed to have lapsed. Shri Naphade's interpretation of the scheme of Sections 126 and 127, if accepted, will lead to absurd results and the landowners will be deprived of their right to use the property for an indefinite period without being paid compensation. That would tantamount to depriving the citizens of their property without the sanction of law and would result in violation of Article 300-A of the Constitution.”

17. The Apex Court has held that the publication of declaration under sub-section (2) and (4) of Section 126 read with Section 6 of the Land Acquisition Act is a sine qua non for commencement of any proceedings for acquisition under the MRTP Act. Now declaration is under Section 19 of the Right to Fair Compensation and Transparency

in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred as " Act of 2013"). The Apex court had considered the entire scheme of Sections 126 and 127 of the MRTP Act and majority views in case of *Girnar (2) (supra)* is upheld in *Girnar (3) (supra)* and the same view is reiterated in *Shrirampur Municipal Council (supra)*.

18. In view of the aforesaid ratio, mere passing of resolution by respondent no.4 and forwarding of acquisition proposal to the Collector cannot be construed as 'steps for acquisition' or commencement of land acquisition proceedings. Admittedly, no amount is deposited by Respondent No.4 with the Collector towards compensation to be paid to the land owners/petitioners. Therefore, in view of the settled legal position, respondent no.4 has failed to take effective steps for acquisition of the land under reservation within the time frame of twenty four months from the date of receipt of notice under Section 127 of the MRTP Act. Reservation, therefore, stands lapsed in view of the deeming fiction under Section 127 of the MRTP Act. The petition, therefore, deserves to be allowed.

19. In the result, we pass the following order :-

ORDER

(i) The Writ Petition is allowed in terms of prayer clause "B".

- (ii) The respondents shall take immediate steps and shall issue a notification under sub-section (2) of Section 127 of the MRTP Act, in any case, within 12 weeks from today.
- (iii) No order as to costs.
- (iv) Rule is made absolute in above terms.

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]